THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.No.4043 of 1994

Dated 06-03-2006

Between:

M.Narayana Reddy,

and others

…Petitioners

A n d

The District Collector, Hyderabad,

and others

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.No.4043 of 1994

ORDER:

The predecessors-in-title of the petitioners herein possessed and held an extent of Ac.3.00 of land, in Sy.No.157 of Khairatabad Revenue village, as *Inamdars*. It is stated that in the year 1928,
a *Nuzool* Deed was executed in favour of the petitioners, and that they are in continuous possession of the land, on the strength of the same.

The A.P. State Legislature enacted the A.P (Telangana Area) Abolition of Inams Act, 1955 (for short '*the Act*'), abolishing all Imams in the area. It also provided for grant of Occupancy Right Certificates (for short 'the Certificate'), in favour of eligible persons.

Petitioners, the 4th respondent, and certain others filed application before the Revenue Divisional Officer, Hyderabad, the 2nd respondent herein, for grant of a Certificate, in respect of the said land. Through order dated 06-07-1979, the 2nd respondent granted a Certificate, in favour of the petitioners. Aggrieved thereby, the 4th respondent preferred an appeal before the Joint Collector, Hyderabad. The Appeal was allowed on 08-01-1988, and the matter was remanded for fresh consideration. On such remand, the 2nd respondent once again issued a Certificate, in favour of the petitioners, through order dated 28-11-1989. However, this order was set aside by the 1st respondent, through order dated 31-12-1990, in the appeal preferred by the 4th respondent.

Petitioners filed W.P.No.2757 of 1991 against the order of the 1st respondent,

dated 31-12-1990. The writ petition was allowed
on 28-4-2003, and the Certificate issued in favour of the petitioners, became final.

The A.P. Wakf Board, the 3rd respondent herein, issued a notification, dated 30-08-1984, declaring the said three acres of land, in Sy.No.157 of Khairatabad Revenue Village, as Wakf property. The petitioners challenge that notification.

The petitioners contend that the Certificate issued in their favour, by the Competent Authority, under the Act, became final, and at no point of time, the 3rd respondent has put forward its claim for grant of such rights.

Learned counsel for the petitioners submits that even after amendment to Section 4 of the Act, it is obligatory on the part of a religious institution, to apply for grant of Certificate, and it cannot unilaterally set at naught, the Certificate issued in favour of the petitioners.

Learned Government Pleader for Revenue and learned Standing Counsel for the 3rd respondent, on the other hand, submit that, by operation of second proviso, to Section 4, added through Act 19 of 1994, the Certificate, issued in favour of the petitioners became inoperative, and unless a fresh exercise is undertaken, the petitioners cannot derive any rights, out of the Certificate.

After second round of litigation, the Certificate issued in favour of the petitioners, under the Act, became final. Had the Act remained as such, the impugned notification issued by the 3rd respondent could not have been permitted to defeat the rights of the petitioners over the land in question. Certain developments have taken place, after the Certificate was issued, in favour of the petitioners.

The Act was amended through A.P. Act 19 of 1994. Two provisos were added to Section 4: The first proviso is to the effect that, in respect of the lands, covered by *Imams*, held by, or, for the benefit of religious institutions, no persons shall be entitled to be registered as occupants, under Sections 5, 6 and 8, and that the institutions so run, shall be entitled to be registered as occupants of such land. The second proviso nullifies the Certificates, issued in respect of such lands, after the Amendment Act of 1985, came into force.

When the application of the petitioners was under consideration, these

provisos were not there, and in that view of the matter, there was no occasion for the 3rd respondent, to put forward its claim. By operation of the second proviso, the Certificate, issued in favour of the petitioners, becomes inoperative,
if it ultimately emerges that the land is part of *Inam*, held by, or for the benefit of the Wakf. That, however, is a question, which needs to be considered after due enquiry. For this purpose, the matter needs to be remanded for fresh consideration.
Any further observations are likely to have their impact on the merits of the matter.

For the foregoing reasons, the writ petition is disposed of, directing that,

a. the Occupancy Rights Certificate, issued in favour of the petitioners, is set aside, in the limited context of verification of the nature of the *Inam*, in relation to the land, admeasuring 3 acres, in Sy.No.157 of Khairatabad Revenue Village. The matter shall be dealt with by the 2nd respondent, afresh, and the 3rd respondent shall be entitled to put forward its claim.

b. In case, it emerges that the *Inam* was not held by, or for the benefit of the 3rd respondent, the petitioners shall be issued the Occupancy Right Certificates afresh.

c. In case, it is held that the land is held by, or for the benefit of the 3rd respondent, the 2nd respondent shall pass appropriate orders, accordingly.

d. Status quo obtaining as on today, as regards possession, shall be maintained, until the finalization of the said proceedings.

e. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.06-03-2006.

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